

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA,

-v-

Declaration
11 Cr. 1032 (PAE)

FELIX LOPEZ-CABRERA

Defendant.

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1. I, Irving Cohen, counsel to the Defendant, Felix Lopez-Cabrera, submit this Declaration in support of a Motion to Suppress physical evidence and any proposed in-court identifications.

PHYSICAL EVIDENCE

2. On or about December 7, 2011, agents of the Bureau of Alcohol, Tobacco and Firearms arrested Mr. Lopez-Cabrera at his residence located at 622 East 226th Street, Unit #2, Bronx, New York.

3. The agents were in possession of a search warrant dated December 6, 2011 signed by the Honorable Frank Maas, United States Magistrate Judge of the Southern District of New York. (Ex. A)

4. The search warrant was predicated upon an affidavit signed by Special Agent Andrew Daher, the relevant portion of which is attached as Ex. B.

5. Upon information and belief, a search of the premises uncovered physical evidence which the Government may seek to introduce at trial including a machete.

6. It is the Defendant's contention that the affidavit of Agent Daher did not provide probable cause for the issuance of the search warrant.

IDENTIFICATION

7. Upon information and belief, the Government may have witnesses at trial attempt to make an in-court identification.

8. These witnesses have not participated in any pre-trial identification procedures such as a corporeal or photographic line-up.

9. It is unknown whether any participated in a one-on-one photographic or corporeal "show-up."

10. It is the Defendant's contention, therefore, that any in-court identification would be inherently suggestive and, as such, unconstitutional.

WHEREFORE, it is respectfully requested that any physical evidence seized as a result of the execution of the search warrant and any attempted in-court identifications be suppressed.

Dated: New York, New York
June 30, 2014

/S/ *Irving Cohen*
IRVING COHEN